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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/992,208

11/14/2001

Ron Crane

10015250-1

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7590

03/09/2006

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

EXAMINER

KANG, ROBERT N

ART UNIT

PAPER NUMBER

2622

DATE MAILED: 03/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 09/992,208	Applicant(s) CRANE ET AL.	
	Examiner Robert N. Kang	Art Unit 2622	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 February 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s). REQUEST OF RECONSIDERATION
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1, 3-10, 13, 14, 17 and 18.


Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached response.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.


TWYLER LAMB
PRIMARY EXAMINER

Response to After-Final Amendment

Examiner apologizes for any confusion regarding the status of the previous Office Action, since the action was a final rejection but labeled as non-final on the PTO-326; the examiner made an error in filling out the form. Again, the examiner apologizes for any confusion or inconvenience this error may have caused.

Response to Arguments

1. Applicant's arguments filed 2/27/06 have been fully considered but they are not persuasive. Examiner has carefully examined the arguments presented and, in summary, asserts that the arguments and request for allowance hinge on two distinct concepts:

- I. "Only a print server can anticipate the print server as recited in the claims."
- II. "The master printer and master print system may not be anticipated by a print server."

With regards to item I, the applicant states on page 7, paragraph 2, "the Office Action's attribution of a 'virtual printer' which is resident on a client device, does not correlate with Applicants' recited 'print server.'" Applicant furthermore asserts, "only a print server can anticipate a print server."

A print server is merely a client machine which delivers print jobs to a singular or plurality of print devices. Because the applicant's print system includes a single master printer which handles the distribution among various printers, all print jobs are directed from client devices to the master printer. Therefore, the virtual printer on a client

machine functions essentially as a printer server would in this arrangement. This is evidenced by a simple hypothetical scenario: if the applicant's invention and the cited interpretation are distinctly different and separately patentable, replacing the virtual printer of Yacoub's invention with a print server would alter the functionality of Yacoub's invention in a novel and unanticipated fashion. Currently, as interpreted, a user from a client machine sends a print job from the virtual printer to the master printer, embodied within a print server and default printer. The master printer then distributes the jobs to various slave printers. Replacing the client machine with a print server, several clients send their print jobs to the print server, which then forwards the job to the master printer, which then distributes the jobs among several slave printers. The functionality and operation of the claimed invention does not differ when replacing a virtual printer with a print server, and therefore the two may be considered functionally equivalent. This merely emphasizes the examiner's point: the invention is not novel over Yacoub's system.

Therefore, Examiner asserts that a virtual printer may anticipate a print server. Were the applicant to further pursue this issue, these claims could easily be rejected under 35 U.S.C. §103(a) by replacing a client machine running a virtual printer with a separate print server so as to allow for increased job distribution with fewer network connections to the master printer system. Multiple print server networks are well known in the art, and the references are clearly combinable. Therefore, the applicant's request for traversal of this argument is denied.

Regarding item II, several of the points made by the applicant raise questions about the specification of the invention. First and foremost, on page 8, the applicant has noted, "the contention in the office Action may have incorrectly assumed that the master print system 59 was the master printer 35... however, as clearly shown in the application, Applicants have described a system in which a master printer includes a master printing system." Examiner feels this semantic distinction is fallacious and unreasonable. Figure 3 clearly shows a large box labeling the master printer 35 including a memory 63, which then contains code executing the master print system 59. This is obviously "included" in the master printer 35, but since the master printer 35 carries out the functionality of the system 59, it "is" the system. Applicant is reminded that under new guidelines of 35 U.S.C. §101, software is not considered statutory material, and therefore a system must include the physical hardware to execute a useful, concrete, and tangible result. Additionally, under the semantic argument posed by the applicant, the print server as disclosed by Yacoub is not actually a print server, it is a computing device comprising hardware and software which includes in memory the computer executable instructions for a print server. Broadly defined, because these instructions operate to distribute print jobs either to the default printer or other printers, it functions identically to the instructions contained in the master print system 59. Therefore, a print server may implement the master print system 59, and as such, a print server and default printer as disclosed by Yacoub anticipates the master printer 35 as well as the master print system 59 of the application.



Therefore, based upon the examiner's recited interpretation of Yacoub, the request for traversal of rejections of claims 1, 3-10, 13-14, and 18-19 has been denied. These rejections still stand unaltered from the previous Office Action and will not be repeated here.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert N. Kang whose telephone number is (571) 272-0593. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Coles can be reached on (571)272-7402. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RNK



TWYLER LAMB
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